



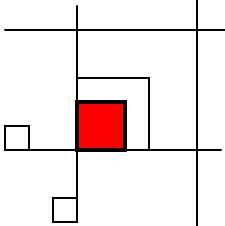
Nebraska State Capitol
Masonry Restoration Project



The Sower
During Restoration

Procedural Manual for Capital Construction Projects

State of Nebraska
Department of Administrative Services
State Building Division
December 2005 (revised June 2013)



Procedural Manual for Capital Construction Projects

Contents

CHAPTER I	INTRODUCTION.....	I-1
A.	Purpose of the Procedural Manual	I-1
B.	Rules and Regulations	I-1
C.	Chronological Summary of the Procedures	I-2
D.	Applicability.....	I-2
CHAPTER II.	DEFINITIONS	II-2
CHAPTER III.	CAPITAL CONSTRUCTION BUDGET AND APPROPRIATION CYCLE.....	III-1
A.	Agency Request	III-1
B.	Amended Budget Request.....	III-1
C.	Federal Requirements	III-1
CHAPTER IV.	PROJECT RESPONSIBILITIES	IV-1
A.	Introduction.....	IV-1
B.	Agency Responsibilities.....	IV-1
C.	DAS State Building Division Responsibilities.....	IV-2
D.	Professional Consultants' Responsibilities	IV-4
E.	Building Construction Industry Responsibilities	IV-6
CHAPTER V.	PROFESSIONAL CONSULTANTS SELECTION PROCESS ...	V-1
A.	Introduction.....	V-1
B.	Statutory Authority	V-1
C.	Legal Requirements	V-1
D.	Definition of a Project	V-2
E.	Information Statements	V-2
F.	Selection Process.....	V-2
G.	Contract Review and Approval	V-4
CHAPTER VI.	COMPREHENSIVE CAPITAL FACILITIES PLAN.....	VI-1
A.	Introduction.....	VI-1
B.	Statutory Authority	VI-1
C.	Outline for Comprehensive Capital Facilities Planning	VI-1
D.	Updating Requirements.....	VI-4

CHAPTER VII. NEED STATEMENT - INITIAL FUNDING REQUEST.....	VII-1
A. Introduction.....	VII-1
B. Need Statement.....	VII-1
CHAPTER VIII. PROGRAM STATEMENT	VIII-1
A. Introduction.....	VIII-1
B. Statutory Authority	VIII-1
C. Outline for Program Statements	VIII-1
D. Program Statement Approval Process	VIII-6
CHAPTER IX. DESIGN DEVELOPMENT DOCUMENTS	IX-1
A. Introduction.....	IX-1
B. Statutory Authority	IX-1
C. Legal Requirements	IX-1
D. Elements of Design Development Documents	IX-1
E. Design Development Review.....	IX-4
CHAPTER X. CONSTRUCTION DOCUMENTS.....	X-1
A. Introduction.....	X-1
B. Statutory Authority	X-1
C. Legal Requirements	X-1
D. Elements of Construction Documents	X-1
E. Construction Documents Review and Approval.....	X-3
CHAPTER XI. BIDDING AND CONSTRUCTION CONTRACT PHASE	XI-1
A. Introduction.....	XI-1
B. Definitions and Applicability	XI-1
C. Statutory Authority	XI-2
D. Project Classification	XI-2
E. Special Situations	XI-5
F. Ethics and Conduct	XI-6
G. Technical Specifications and Scope of Work.....	XI-7
G. Technical Specifications and Scope of Work.....	XI-7
H. Contractor Selection and Project Award.....	XI-7
I. Grievance Procedure.....	XI-8
J. Construction Contract Review and Approval	XI-9
CHAPTER XII. CONSTRUCTION PHASE.....	XII-1
A. Introduction.....	XII-1

B.	Statutory Authority	XII-1
C.	Preconstruction Phase	XII-1
D.	Construction Phase	XII-2
E.	Substantial Completion.....	XII-3
F.	Final Completion – Submittal of Final Contractor Payment(s) to the DAS State Building Division	XII-4
CHAPTER XIII. POST CONSTRUCTION PHASE		XIII-1
A:	Introduction.....	XIII-1
B.	Statutory Authority	XIII-1
C.	Legal Requirements	XIII-1
D.	Final Report by Agency	XIII-1
E.	Final Review by State Building Division.....	XIII-2
F.	Guarantee and Warranty Phase	XIII-2
G.	Project Close-out	XIII-3
CHAPTER XIV. SITE AND STRUCTURE NAMING PROCEDURES		XIV-1
	Introduction.....	XIV-1
	Statutory Authority	XIV-1
	Procedures	XIV-1
	Site and Structure Naming Review and Approval.....	XIV-1
CHAPTER XV. CAPITAL CONSTRUCTION EMERGENCY CONTINGENCY FUND		XV-1
A.	Introduction and Purpose	XV-1
B:	Statutory Authority	XV-1
C.	Procedures	XV-1

Procedural Manual for Capital Construction Projects

Appendices

APPENDIX A	Recommended Modifications to the AIA Owner – Architect Agreement (AIA B141)
APPENDIX B	State of Nebraska Owner Contractor Agreement (Large Projects)
APPENDIX C	State of Nebraska Owner Contractor Agreement (Small Projects)
APPENDIX D	State of Nebraska General Conditions
APPENDIX E	State of Nebraska Construction Contract Change Order
APPENDIX F	AIA Application and Certificate for Payment (AIA G702)
APPENDIX G	Agency Code Numbers
APPENDIX H	Nebraska Arts Council 1% for Art Regulations
APPENDIX I	Task Force for Building Renewal Project Procedures / Standards
APPENDIX J	Definition of Area Calculation Parameters in State Buildings
APPENDIX K	DAS Capital Construction Quarterly Progress Report Form
APPENDIX L	Guidelines for Tree Removal/Replacement on State Lands
APPENDIX M	State Comprehensive Capital Facilities Planning Guidelines
APPENDIX N	Official Rules and Regulations Governing Procedures for Facility Construction Projects by the DAS State Building Division

CHAPTER I INTRODUCTION

A. Purpose of the Procedural Manual

The legislative and executive branches of government in the State of Nebraska have sought to attain maximum utilization of the tax dollars in all capital construction projects undertaken for the benefit of Nebraska citizens. Construction processes and methods of delivery have become much more diverse in the last twenty years. Accordingly, as the level of technology and complexity of construction projects has grown,, there has been a continuing effort by the elected representatives to develop a system of checks and balances in the capital construction process. To insure creativity, to make sure each new structure meets the unique needs of its users and to obtain maximum professional proficiency, there have been periodic legislative directives requiring the utilization of outside professional consultants in major capital construction projects.

Legislation has been enacted to consolidate responsibilities for the planning, construction, energy conservation and the administration of State facilities. The goal of the legislation has been an attempt to provide technical assistance to the State agencies and their professional consultants plus, providing a central source of records on facilities for use by the legislative and executive branches of State government. This manual attempts to consolidate these efforts by interpreting both the legislative and administrative directives into rules and regulations, guidelines and procedures required for the development and completion of capital construction projects.

The primary objective of this “Procedural Manual” is to assist the State agencies, the DAS State Building Division, the professional consultants and the building construction industry in understanding and implementing the procedures required for successfully processing a capital construction project for the State of Nebraska. Most of the procedures involved are the direct responsibility of the State agencies and the DAS State Building Division, but the professional consultants and the construction industry should also be acquainted with the specifics of all responsibilities involved in capital construction projects.

B. Rules and Regulations

Statutory requirements and those items within the manual which have been filed as official rules and regulations are mandatory procedures in the capital construction process. Sections of this manual that are official rules and regulations are designated by the symbol R- XX in the left margin. Additionally, all official rules and regulations are listed in

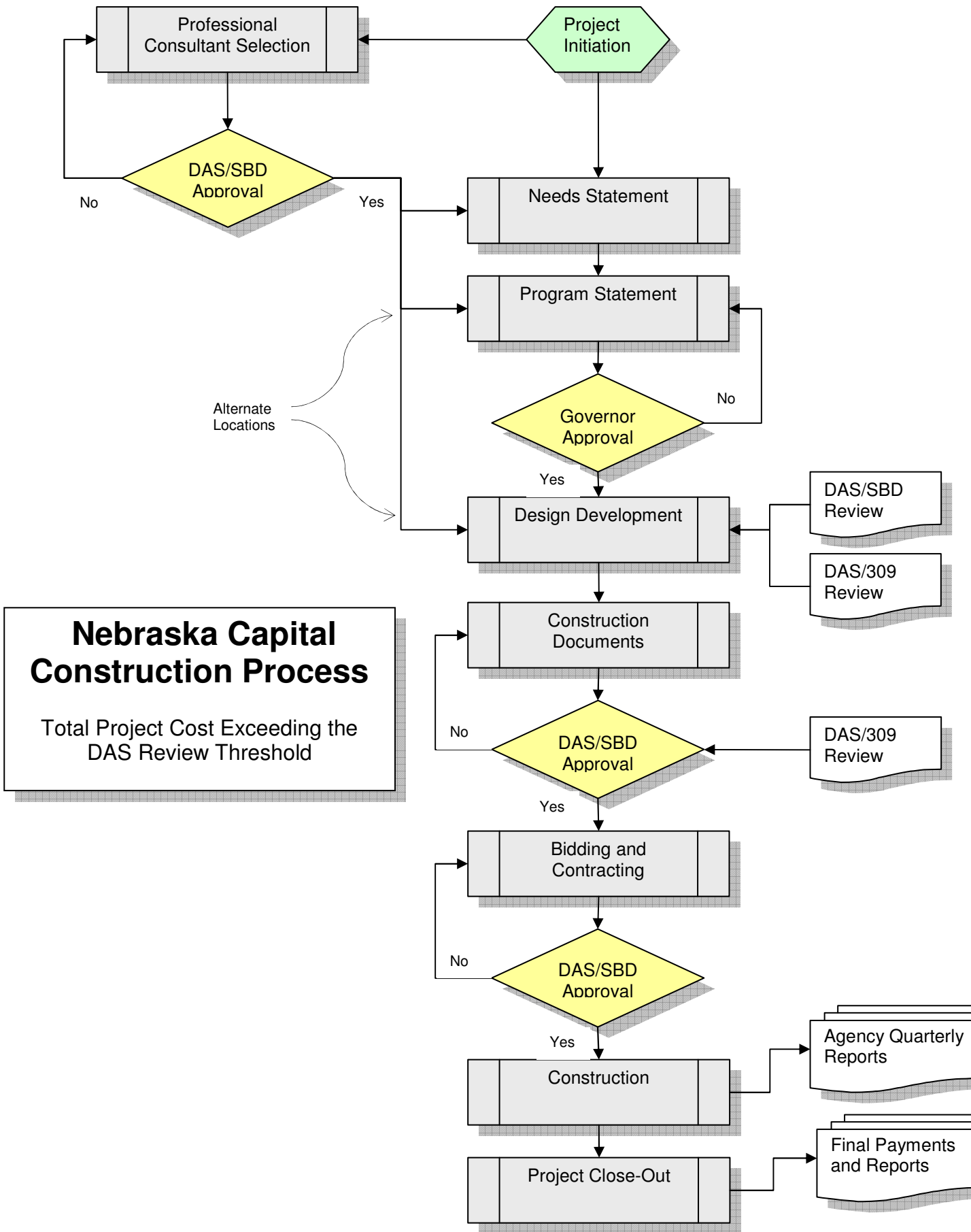
Appendix N.

C. Chronological Summary of the Procedures

1. Refer to the diagram on page I-3.

D. Applicability

The procedures outlined in this manual shall apply to all capital construction projects whose total project cost exceeds **\$580,000** which are administered by a State agency, board or commission, regardless of the source of funding (i.e. State funds, federal funds, private donations, etc.). It should be noted that the Nebraska Supreme Court, in the case of Board of Regents vs. Exon, 199 Neb 146, 256 N.W. 2d 330 (1977) held that State Statute Sections 81-1108.41 to 1108.43 did not apply to the Board of Regents.



CHAPTER II. DEFINITIONS

Owner	State of Nebraska
Agency	Any State board, council, commission or department responsible for executing the project under consideration
SBD	State Building Division, which is a division of the Department of Administrative Services
DAS	Department of Administrative Services
A.I.A.	American Institute of Architects
N.S.P.E.	National Society of Professional Engineers
Project	<p>Any capital facilities planning or construction of a project which is executed by an agency. A project may constitute:</p> <ul style="list-style-type: none">• A single construction project• A grouping of minor construction, rehabilitation, restoration or renovation activities• A grouping of substantially similar construction, rehabilitation, restoration or renovation activities.

Fixed Limit of Construction Costs

The maximum dollar amount to be expended for a project which has a specific funding either partially or totally through an appropriation of State funds.

Estimated Total Project Costs

The calculated dollar amount for the complete construction of a specific project including but not limited to the following:

- program planning
- professional fees (Architect/Engineer, Planning,, other)
- construction (general, mechanical, electrical, elevator, fixed equipment, site improvements, utility connections)
- movable equipment
- special or technical equipment
- land acquisition

- artwork (for applicable projects)
- other costs (agency administration costs, moving, testing, surveys, legal fees, insurance, etc.)
- contingency

Need Statement

A document, prepared by the agency, which serves as the basis of their request for capital funding. The data supplied should assist the Executive Budget Office, the State Building Division and the Legislature Fiscal Analyst Office in the initial evaluation of the project.

Program Statement

A document which further develops the data contained in the agency's need statement into a detailed facility planning program. This document shall be prepared either in-house or by a professional consultant and serves as:

- the basis of their request for project funding
- a narrative and graphic summary of the project and all supporting information
- a programming tool for further development of the project

Professional Consultant

A person or organization professionally qualified and duly licensed in the State of Nebraska to perform architectural, landscape architectural, engineering or land surveying services.

Consultant

A person or organization engaged by the owner or Professional Consultant to render special consulting services of a technical nature not normally required for a capital facility construction project.

Firm

Firm shall mean any individual, partnership, corporation, association or other legal entity permitted by law to practice architecture, landscape architecture, engineering or land surveying in the State of Nebraska.

Project Manager

A person within an agency designated by the Director who is

responsible for administration of the project and coordination with the DAS State Building Division, the agency's professional consultant(s) and the contractor(s).

Time-Cost Schedule

A chart that plots distribution of funds versus time over the life of the project.

CHAPTER III. CAPITAL CONSTRUCTION BUDGET AND APPROPRIATION CYCLE

Agency Request

The Agency's budget request shall be submitted in accordance with the 'Budget Preparation Instructions for Capital Construction Projects' and may represent any of the following situations:

- planning funds only
- total project funding over one fiscal year
- planning funds the first year and construction funds the following year(s)
- construction funds for a project whose program statement and/or documents have been previously submitted
- reaffirmation of funds previously authorized, but not yet appropriated

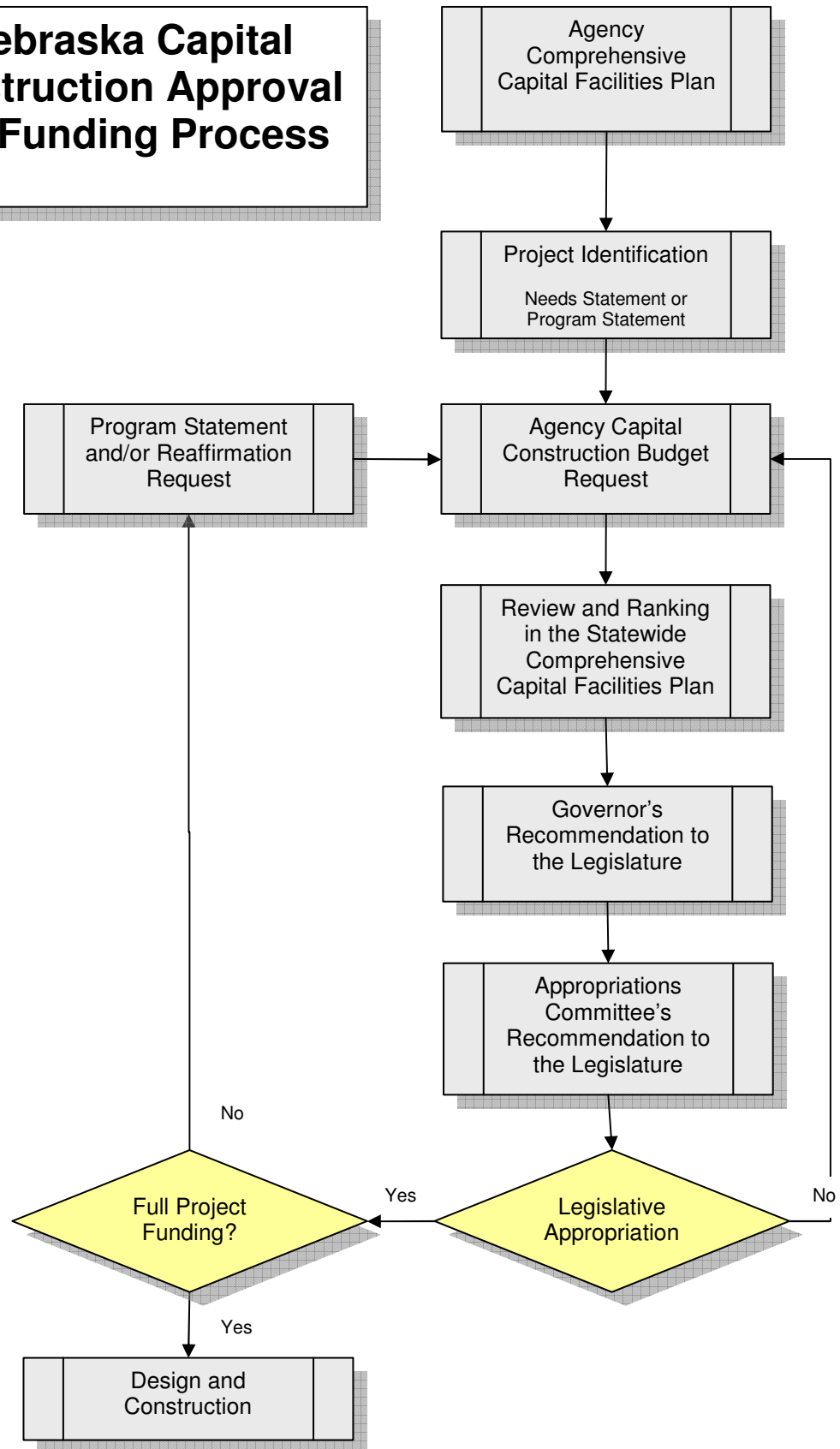
Amended Budget Request

In order for a budget request to be revised between September 15th and the end of the Legislative Session, the budget request documents must be officially amended according to the procedures outlined in the current edition of the 'Budget Preparation Instructions for Capital Construction Projects'.

Federal Requirements

It is the Agency's responsibility to follow all federal requirements for projects which are funded either partially or totally by federal funds. Any conflicts between federal and State requirements shall be referred to the State Building Division.

Nebraska Capital Construction Approval and Funding Process



CHAPTER IV. PROJECT RESPONSIBILITIES

A. Introduction

The purpose of this chapter is to establish an understanding of the general responsibilities required of the agency, the DAS State Building Division, the professional consultants and the construction industry in the successful undertaking of a capital facilities project for the State of Nebraska. Successful projects are the result of close interaction between these four groups on a team basis with the common goal of achieving the highest quality project possible within the constraints of budgetary, administrative and legislative guidelines.

B. Agency Responsibilities

The following items are basic responsibilities of the agency. Those items indicated with an asterisk may be performed by the professional consultants.

1. Coordination with the DAS State Building Division
2. Professional consultant(s) selection
- *3. Development of a comprehensive capital facilities plan
4. Funding request
- *5. Program planning, including full information for the requirements of the project
6. Information about the following:
 - *a. Site, including a certified land survey, utility information, soil test reports
 - *b. Laboratory tests, inspections and reports
 - c. Legal, accounting and insurance counseling services
 - *d. Project budget and funding
 - *e. Time schedule
7. Designation of an agency project manager

- *8. Submission of appropriate approvals as specified or required by this manual.
- *9. Approval of other governmental agencies as required by state statutes (Fire Marshall, Electrical Inspector, HHSS Regulation and Licensure Department, Labor Department, etc.)
- *10. Compliance with state building and energy codes
- 11. Procurement of artwork in coordination with the Nebraska Arts Council (for applicable projects)
- 12. Issuance of legal and public notices
- 13. Processing of payments to the professional consultants and the contractors
- 14. Submission of quarterly progress and final reports to the DAS State Building Division
- 15. Final evaluations of the project, the contractor and the professional consultant
- 16. Final acceptance of the project
- 17. Coordination with the State Historical Society

C. DAS State Building Division Responsibilities

The DAS State Building Division shall have the primary functions and responsibilities to coordinate statewide facilities planning, construction, administration and to promulgate rules and regulations to carry out the following:

- 1. Facilities planning shall include the following responsibilities:
 - a. To establish and maintain a state-wide comprehensive capital facilities plan
 - b. To maintain utilization records for all state-owned and occupied facilities
 - c. To coordinate comprehensive capital facilities planning
 - d. To define and review program statements

- e. To prepare or review planning and construction documents
 - f. To develop and maintain time-cost schedules for capital construction projects
 - g. To assist the Governor and the Legislative Fiscal Analyst in the preparation of the capital construction budget recommendations
 - h. To maintain a complete inventory of all state-owned or occupied sites and structures and to review the proposals for naming such sites and structures
 - i. To guide the professional consultant selection process
2. Facilities construction shall include the following powers and duties:
- a. To maintain close contact with the agency's Project Manager and make inspections of each project so as to assure execution of time-cost schedules and efficient contract performance
 - b. To perform final acceptance inspections and evaluations
 - c. To review all change or modification orders and progress payment orders
 - d. In coordination with DAS Risk Management Division, establish insurance requirements with minimum limits for construction activities (Workers compensation, builders risk insurance, public liability and automobile, consultant's professional liability)
3. Facilities administration shall include the following powers and duties:
- a. To administer the State Emergency Capital Construction Contingency Fund
 - b. To submit quarterly progress reports to the Governor and Legislative Fiscal Analyst
 - c. To submit a final report (final quarterly report) on each project to the Governor and Legislative Fiscal Analyst

D. Professional Consultants' Responsibilities

The professional consultants' responsibilities may include, but are not limited to, the following services to the State of Nebraska as part of the basic services for the successful completion of the project.

1. Comprehensive Capital Facilities Plan

Develop or review and update of the agency's comprehensive capital facilities plan
2. Program Statement

Develop or review and update the agency's program statement
3. Schematic Design
 - a. Review and comment on project budget requirements
 - b. Development of alternative approaches to the design of the project
 - c. Development of schematic design documents
 - d. Statement of conformance with fixed budget for construction
 - e. Statement of conformance with comprehensive capital facilities plan and program statement
4. Design Development
 - a. Preparation of Design Development documents
 - b. Statement of conformance with fixed budget for construction
 - c. Statement of conformance with the program statement
 - d. Statement of conformance with the energy standards as adopted by the State of Nebraska (International Energy Code)
 - e. Coordination with the Nebraska Arts Council (for

applicable projects)

5. Construction Documents
 - a. Development of detailed drawings and specifications
 - b. Certification of conformance with approved design development documents
 - c. Certification of conformance with fixed budget requirements
 - d. Submission of plans for review by the State Fire Marshal and other applicable code authorities.
 - e. Certification of compliance with the State Building Code and justification for variances
6. Bidding and Construction Contract Phase
 - a. Preparation of the bid documents
 - b. Assist the agency in obtaining bids
 - c. Assist the agency in reviewing, awarding and preparing contracts for construction
7. Construction Phase
 - a. Administration of the construction documents
 - b. Review and approval of shop drawings
 - c. Periodic site inspections and reports
 - d. Review and approval of certificates of payment by the contractor
 - e. Preparation and recommendation of change orders
 - f. Issuance of certificate of substantial completion
 - g. Approval of final certificate of payment

- h. Review and assure warranties and operating manuals are provided to the agency
- i. Provide written interpretations in the event of disputes between the State of Nebraska and the contractor
- j. Provide additional services as specifically requested in writing by the agency in accordance with the agreement
- k. Review end-of-period warranty conditions and report findings (eleventh month walk through)

E. Building Construction Industry Responsibilities

The building construction industry shall generally be responsible to the State of Nebraska for the following to insure successful completion of the project:

- 1. Secure all permits required for the project
- 2. Familiarize itself with existing site conditions including, but not limited to utilities, easements, appurtenances to the project
- 3. Coordination of all portions of the work under contract
- 4. Provide all labor, materials, equipment and supervision necessary for the proper execution and completion of the work
- 5. Comply with all codes, laws, ordinances, rules, regulations and orders relating to the project
- 6. Coordinate with the agency and other contractors for the use of the site
- 7. Compliance with time schedule
- 8. Submission of certificates for payment
- 9. Provide and maintain insurance as required in the project's specifications
- 10. Provide to the agency all operating instructions, maintenance manuals, and all warranties required by the contract documents
- 11. Honor all warranties, including warranted deficiencies found prior to the end of the warranty period

CHAPTER V. PROFESSIONAL CONSULTANTS SELECTION PROCESS

A. Introduction

The purpose of the professional consultants selection process is to provide managerial control over competitive negotiations by the State of Nebraska for the acquisition of services by professional architects, engineers, landscape architects or land surveyors. The selection and review process is the basis for acquiring the highest level and most appropriate professional consultant services available for the requirements of the project being undertaken within the professional fee budget. The definitions found in sections 81-1704 thru 81-1710 shall apply only to this chapter.

B. Statutory Authority

- | | | |
|----|--------------------------|---|
| 1. | R.R.S. 33-141 - 33-142 | (Rates for legal notices) |
| 2. | R.R.S. 73-101 - 73-105 | (Public lettings) |
| 3. | R.R.S. 81-1108.16 | (State Building Division review of contracts) |
| 4. | R.R.S. 81-1108.41 | (Review, reports and approval of contracts) |
| 5. | R.R.S. 81-1114 | (Submission of contracts to Legislative Fiscal Analyst) |
| 6. | R.R.S. 81-1701 - 81-1721 | (Nebraska Consultant's Competitive Negotiation Act) |

C. Legal Requirements

1. The selection process shall apply to all state agencies
2. The professional consultants selection process is required for projects whose basic construction cost is estimated to exceed **\$580,000** and/or professional consultant services is estimated to exceed \$60,000.
3. The selection process shall not apply to projects for which the agency is able to reuse existing drawings, specifications and other documents from a prior project and such documents are owned by the state. The reuse of existing drawings and

specifications shall be applied to a project substantially identical to the project for which the plans were originally prepared.

D. Definition of a Project

A project is any construction or planning activity executed by an agency. A project may constitute:

1. A single construction project
2. A grouping of minor construction, rehabilitation, restoration or renovation activities
3. A grouping of substantially similar construction, rehabilitation, restoration or renovation projects
4. A continuing contract for construction related services of a specified nature with no time limitation

E. Information Statements

Firms are encouraged to submit annually a statement of qualifications and performance data to the DAS State Building Division or the individual agencies, and to keep this material current. The DAS State Building Division shall maintain a central file of performance data and qualification statements for use by the state agencies. This data may include the Standard Federal Form 254 - Architect/Engineer and Related Services Questionnaire.

F. Selection Process (Considerations, Interviews)

1. Selection Committee:

Each agency shall assemble the professional consultants selection committee. The committee shall be composed of 3 to 5 members in which one member represents the agency, one member whose profession represents that particular field of endeavor being considered, one member as designated by the DAS State Building Division and two others selected by the agency if desired. The DAS State Building Division representative may also represent the professional member, if such arrangement is agreed to by the agency and the DAS State Building Division.

2. Public Notice:

The public notice includes a general description of the project and shall indicate how interested firms can apply for consideration. The public notice shall be published in a statewide publication and in the locality of the project. The public notice shall be published a minimum of one time at least 15 calendar days prior to the deadline for receipt of consultant proposals.

3. The selection committee shall receive all the letters of interest generated by the public notice and other methods of soliciting input from prospective consultants.
4. All firms responding with a letter of interest shall develop additional information with reference to the project as specified by the selection committee.
5. The selection committee shall evaluate all information supplied by each firm.
6. The selection committee shall consider the following qualifications in selecting no less than three and no more than seven firms for interviews:
 - a. Ability of professional personnel proposed to be assigned to the project
 - b. Past performance on projects of the agency or other agencies
 - c. Willingness and stated ability to meet time and budget requirements
 - d. Geographic location of the firm's office(s)
 - e. Recent, current and projected workload of the firm
 - f. Volume of work previously awarded the firm by the agency or other state agencies
 - g. Other criteria the committee deems relevant to the project
7. Interviews with the selected firms

The following are appropriate topics for discussion:

- a. Qualifications of key personnel to be assigned to the project

- b. Approach to the project development
 - c. Design philosophy as it relates to the project
 - d. Ability to furnish required services within the time and budget restraints
 - e. Identify portions of the work to be performed by outside consultants hired by the firm being interviewed
 - f. Other topics that the committee deems relevant to the project
8. After completion of all of the interviews the selection committee (or the committee's designated representative) shall attempt to negotiate a contract with the most highly qualified firm which identifies work to be done as basic and additional services at a compensation the committee (or its designee) determines to be fair and reasonable. If unable to reach an agreement with the most highly qualified firm, the committee (or its designee) shall terminate negotiations and initiate negotiations with the second most qualified firm for negotiation. If unable to reach an agreement, the third most qualified firm is to be considered for negotiation. If unable to reach an agreement, the committee shall either reevaluate the scope and requirements of the project to determine the possible cause for failure to achieve a negotiated agreement or select additional firms in order of their competence and qualifications and continue negotiations until an agreement is reached.
9. The State of Nebraska recognizes the currently published set of American Institute of Architects Owner-Architect Agreements as standard contracts with some modifications. Use of the A.I.A. documents, with stipulated modifications that add certain responsibilities to the professional consultant's "basic services" is recommended. A list of recommended modifications to standard A.I.A. agreements is included in Appendix A. The State of Nebraska also recognizes the Standard N.S.P.E. "Standard Form of Agreement Between Owner and Engineer for Professional Services", provided that the agreement includes modifications similar to those outlined in the A.I.A. document.

G. Contract Review and Approval

1. DAS State Building Division review and approval/disapproval

Note: Consultant contracts for projects funded by the Task Force for Building Renewal (309) (80% or greater funding by the Task Force) are to be submitted for review and approval to the Task

Force in accordance with their Policies and Procedures (see Appendix I) rather than the DAS State Building Division.

a. Information to be submitted by the agency shall include, but not be limited to the following:

(1) Funding

- LB number and section
- year and legislative session
- amount(s)
- program numbers
- agency number (see Appendix G)

(2) Project

- purpose of the contract (program statement, preliminary plans, bidding and construction documents, inspections and/or general consulting)
- location (county, town or campus)
- description of the project
- statewide building inventory number (except new construction)

(3) Contract

- copy of the proposed contract (unsigned by agency)
- recommendation by the agency director
- recommendation by the agency project manager
- review by the agency's legal counsel or by the State Attorney General

(4) Certification by the agency of compliance with the Nebraska Consultants Competitive Negotiations Act.

b. DAS State-Building Division report and approval/disapproval

Note: The DAS State Building Division will generally be completed within 30 days after submittal by the agency.

2. Report filed

Copies of the DAS State Building Division's report and approval/disapproval are filed with the requesting agency, the DAS Budget Office and the Legislative Fiscal Analyst.

3. Notice to proceed

The agency will be notified by the DAS State Building Division on how to proceed.

CHAPTER VI. COMPREHENSIVE CAPITAL FACILITIES PLAN

A. Introduction

Each department and agency of the state, prior to submitting a capital construction project request in excess of four hundred fifty thousand dollars, shall cause to be prepared a comprehensive capital facilities plan. Copies of the plan and all revisions shall be submitted to the:

1. DAS State Building Division
2. DAS State Budget Division
3. Legislative Fiscal Office

Agencies which are responsible for individual departments, campuses or institutions, shall develop an agency-wide plan. Such plan shall have the approval of the agency director or the associated governing board.

B. Statutory Authority

- | | | |
|----|-------------------|--|
| 1. | R.R.S. 81-1108.15 | (Facilities planning, construction and administration) |
| 2. | R.R.S. 81-1114.01 | (Comprehensive capital facilities planning) |
| 3. | R.R.S. 81-1108.16 | (Comprehensive capital facilities planning) |
| 4. | R.R.S. 81-1108.41 | (Comprehensive capital facilities planning) |

C. Outline for Comprehensive Capital Facilities Planning

1. Agency purpose

A narrative description outlining the basic purpose of the agency as set forth by legislative action, by administrative directive or by the agency planning process

2. Agency organization

An outline or chart describing the organizational structure of the agency

3. Agency programmatic goals and objectives

A narrative outlining the goals and objectives of the agency

4. Analysis of existing facilities

Agency programs/services - a listing and brief description of the programs and services being offered in the facility(ies).

- a. Detailed inventory and maps of existing lands and facilities
- b. Utilization data on existing facilities
- c. Physical deficiencies
- d. Programmatic deficiencies

5. Future programmatic needs

- a. Activity analysis
 - (1) New programs
 - (2) Expanding or declining programs with reasons and background
- b. Utilization data
 - (1) Projected space utilization
 - (2) Population projections
 - (3) Identify standards used for projections
- c. Facilities analysis
 - (1) Type of space
 - (2) Quality of space
 - (3) Functional relationship of space and use

6. Identification of projects necessary to meet the stated programmatic goals

- a. New construction

- b. Additions to existing facilities
 - c. Renovation or restoration of existing facilities
 - d. Land or building acquisition
 - e. Site improvements
 - (1) Parking and circulation
 - (2) Utilities
 - (3) Landscaping
 - f. Deferred renewal, handicapped modifications, energy conservation, fire and life safety
 - g. Leased space or property
 - h. Demolition, abandonment or replacement of existing facilities
7. Compliance with the State Comprehensive Capital Facilities Plan
- a. How the plan objectives respond to the Mission Statement and Governing Values for State of Nebraska Capital Construction
 - b. Consequences of delaying project funding for projects as proposed in the agency comprehensive plan
8. Budget estimates
- a. Estimated total project cost of each project identified in the comprehensive plan
 - b. Year in which the calculations are based
 - c. Annual fiscal impact (staffing and operational costs)
9. Time line
- a. Short range plan, 6 years, to coincide with three biennial budget periods detailed by project, year and priority

- b. Long range projections, 7-20 years

D. Updating Requirements

All comprehensive plans shall be updated and revised when a major capital construction project requested for funding is not in compliance with the plan, when major project(s) are completed requiring significant revisions to existing comprehensive plans, or when revisions in projected programmatic needs would significantly affect the comprehensive capital facilities plan. Copies of all updates and revisions shall be submitted by the agency to the:

- 1. DAS State Building Division
- 2. DAS State Budget Division
- 3. Legislative Fiscal Office

CHAPTER VII. NEED STATEMENT - INITIAL FUNDING REQUEST

A. Introduction

The Need Statement serves as the basis of the agency's request for initial capital funding. This document is generally prepared in-house and submitted on or before September 15th as required in the Budget Preparation Instructions.

1. For projects whose estimated total project cost exceeds **\$580,000**, a subsequent program statement must be developed. In such cases, funding procedures allow for consideration during the first year for planning funds and the following year(s) for design development and construction funds.
2. A program statement may be submitted in lieu of a need statement when an agency is preparing a program statement for a project whose estimated total cost exceeds **\$580,000** and the agency wishes to immediately request funds for planning and construction.
3. For projects whose estimated total cost is less than **\$580,000** only a need statement is required. Under this procedure, the initial request for funding may include total funding.
4. For need statement applicability to all projects funded by the Task Force for Building Renewal (see Task Force for Building Renewal Procedures,-Appendix I)

B. Need Statement

1. Project description

Narrative statement describing the project and the primary program concepts and objectives (as related to the agency's mission, goals and objectives) to be fulfilled as a result of the capital construction request.
2. Project justification

Data which supports the request for funding
3. Location
 - a. County

- b. Town or campus
 - c. Existing site location and conditions (if applicable)
 - d. Proposed site
- 4. Comprehensive plan compliance
 - a. Year of the agency's comprehensive plan, and updates or revisions
 - b. Compliance with the agency comprehensive capital facilities plan
 - c. Compliance with the current version of the Statewide Comprehensive Capital Facilities Plan.
- 5. Analysis of existing facilities as they relate to the proposed project
 - a. Functions/purpose of existing programs
 - b. Page size floor plans (8-1/2 X 11" preferred) of existing areas
 - c. Utilization of existing space which will be affected by the proposed project by facility, room, and/or function (whichever is applicable)
 - d. Physical deficiencies
 - e. Programmatic deficiencies
- 6. Facility requirements and the impact of the proposed project
 - a. Functions/purpose of the proposed program
 - (1) Activity identification and analysis
 - (2) Projected occupancy/user levels
 - b. Space Requirements
 - (1) Proposed square footage by functions

- (2) Basis for square footage/planning parameters
 - (3) Estimated Square footage difference between existing and proposed areas
 - c. Impact of project on existing space
 - (1) Reutilization and function(s)
 - (2) Demolition
 - (3) Renovation
 - d. Influence of project on existing site conditions
 - (1) Relationship to neighbors and environment
 - (2) Utilities
 - (3) Parking and circulation
- 7. Project budget and proposed funding source
 - a. Cost estimate criteria
 - (1) Identify recognized standards, comparisons and sources used to develop the estimated cost
 - (2) Identify the year and month on which the estimates are made and the inflation factors used
 - (3) Estimated gross square feet
 - (4) Total project cost per gross square foot
 - b. Total project cost
 - (1) Program planning
 - (2) Professional fees
 - professional consultants
 - other consultants
 - (3) Construction

- general, including mechanical, electrical, elevator
 - fixed equipment
 - contingency
 - site improvements (utilities, sidewalks, parking, landscaping, etc.)
- (4) Moveable equipment
- (5) Land acquisition
- (6) Artwork (Appendix H) (for applicable projects)
- (7) Other costs (agency administration costs, moving, testing, surveys, legal fees, insurance, etc.)
- c. Fiscal Impact
- (1) Estimated additional operational and maintenance costs per year
- (2) Estimated additional programmatic costs per year (including FTE)
- (3) Applicable building renewal assessment charges
- (4) Other costs
- cost to renovate vacated space
 - cost to operate vacated space
 - related costs
- d. Funding sources (amounts and/or percentage of each)
- (1) State funds
- (2) Cash funds
- (3) Federal funds
- (4) LB 309 funds
- (5) Revenue bonds

(6) Private donations

(7) Other sources

8. Time line

- a. Funding request
- b. Funding approval
- c. Program statement submission (if necessary)
- d. Professional consultants selection (if necessary)
- e. Receive bids for construction
- f. Award of Contract and start of construction
- g. Completion of construction

CHAPTER VIII. PROGRAM STATEMENT

A. Introduction

A program statement is required of all projects whose estimated total project cost is **\$580,000** or more. Copies of all program statements shall be submitted to the State Building Division and Legislative Fiscal Office on or before September 15th of the year previous to the initiation of an appropriation for drawings and construction. No contract for the planning, design or construction of a new facility, or major modification or repair of an existing facility provided for by any state appropriation may be initiated unless an acceptable program statement has been approved by the Governor. If an agency intends to contract for professional services to develop a program statement refer to Chapter V.

1. For program statement applicability to all projects funded by the Task Force for Building Renewal see Task Force for Building Renewal Procedures, Appendix I.
2. For projects directly related to program continuation such as fire and life safety, maintenance, utility improvements, handicapped access, parts C-4, C-5 and C-6 of the program statement (below) may be omitted.

B. Statutory Authority

1. R.R.S. 81-1108.15 (Facilitates planning, construction and administration)
2. R.R.S. 81-1108.16 (Review program statements and contract)
3. R.R.S. 81-1108.41 (Program statement)

C. Outline for Program Statements

1. Introduction
 - a. Background and history
 - b. Project description
 - c. Purpose and objectives
2. Justification of the Project

- a. Data which supports the funding request
 - b. Alternatives considered (when applicable)
- 3. Location and site considerations
 - a. County
 - b. Town or campus
 - c. Proposed site
 - d. Statewide building inventory (not required for new buildings)
 - e. Influence of project on existing site conditions
 - (1) Relationship to neighbors and environment
 - (2) Utilities
 - (3) Parking and circulation
- 4. Comprehensive plan compliance
 - a. Year of the agency's comprehensive plan and updates or revisions
 - b. Consistency with the agency comprehensive capital facilities plan
 - c. Consistency with the current version of the Statewide Comprehensive Capital Facilities Plan or CCPE Project Review Criteria/Statewide Plan (whichever applies)
- 5. Analysis of existing facilities
 - a. Functions/purpose of existing programs as they relate to the proposed project
 - b. Square footage of existing areas
 - c. Utilization of existing space by facility, room and/or function (whichever is applicable)
 - d. Physical deficiencies

- e. Programmatic deficiencies
- f. Replacement cost of existing building
- 6. Facility requirements and the impact of the proposed project
 - a. Functions/purpose of the proposed program
 - (1) Activity identification and analysis
 - (2) Projected occupancy/use levels
 - Personnel projections
 - Describe/Justify projected enrollments or occupancy
 - b. Space requirements
 - (1) Square footage by individual areas and/or functions
 - (2) Basis for square footage/planning parameters
 - (3) Square footage difference between existing and proposed areas (net and gross)
 - c. Impact of the proposed project on existing space
 - (1) Reutilization and function(s)
 - (2) Demolition
 - (3) Renovation
- 7. Equipment Requirements
 - a. List of available equipment for reuse (if applicable)
 - b. Additional equipment (if applicable)
 - (1) Fixed equipment
 - (2) Movable equipment
 - (3) Special or technical equipment

8. Special Design Considerations
 - a. Construction Type
 - b. Heating and cooling systems
 - c. Life Safety/ADA
 - d. Historic or architectural significance
 - e. Artwork (for applicable projects)
 - f. Phasing
 - g. Future expansion
 - h. Other
9. Project budget and fiscal impact
 - a. Cost estimates criteria
 - (1) Identify recognized standards, comparisons and sources used to develop the estimated cost
 - (2) Identify the year and month on which the estimates are made and the inflation factors used
 - (3) Gross and net square feet
 - (4) Total project cost per gross square foot
 - (5) Construction cost per gross square foot
 - b. Total project cost
 - (1) Program planning
 - (2) Professional fees
 - professional design consultants
 - in-house consultants
 - other consultants
 - (3) Construction

- general, including mechanical, electrical, elevator
 - fixed equipment
 - site improvements (utilities, sidewalks, parking, landscaping, etc.)
- (4) Moveable equipment
 - (5) Special or technical equipment
 - (6) Land acquisition
 - (7) Artwork (for applicable projects)
 - (8) Other costs (agency administration costs, moving, temporary space, testing, surveys, legal fees, insurance, etc.)
 - (9) Project contingency
- c. Fiscal Impact based upon first full year of operation (include proposed funding sources and percentage of each)
- (1) Estimated additional operational and maintenance costs per year
 - (2) Estimated additional programmatic costs per year
 - (3) Applicable building renewal assessment charges

10. Funding

- a. Total funds required
- b. Project Funding sources (amounts and/or percentage of each)
 - (1) State funds
 - (2) Cash funds
 - (3) Federal funds
 - (4) LB 309 funds

- (5) Revenue bonds
 - (6) Private donations
 - (7) Other sources
 - c. Fiscal year expenditures for project duration
- 11. Time line
 - a. Need Statement (if applicable)
 - b. Program Statement
 - c. Funding
 - d. Professional consultants selection
 - e. Design Development documents
 - f. Receive bids for construction
 - g. Award of contract and start of construction
 - h. Completion of construction
- 12. Higher Education Supplement
 - a. Coordinating Commission for Postsecondary Education (CCPE) Review
 - (1) CCPE review is required
 - (2) CCPE review is not required
 - b. Method of contracting
 - (1) Identify method
 - (2) Provide rationale for method selection

D. Program Statement Approval Process

- 1. State Building Division review
 - a. Information to be submitted by the agency shall include

the following:

(1) Funding

- LB number and section
- year and legislative session
- program numbers
- agency number (Appendix G)
- amount(s)

(2) Copy of program statement (unless previously submitted)

b. State Building Division's report and recommendations

2. Review by D.A.S. Budget Division
3. Review by D.A.S. Director
4. Review by Governor for approval or disapproval
5. Report filed

Copies of the State Building Division's report and recommendations are filed with the requesting agency, Legislative Fiscal Analyst, and the Governor.

6. Notice to proceed

The agency will be notified by the State Building Division on how to proceed

CHAPTER IX. DESIGN DEVELOPMENT DOCUMENTS

A. Introduction

During the Schematic Design and Design Development phases of a project, the professional consultant provides drawings and other documents to fix and describe the size and character of the entire project as to structural, mechanical and electrical systems, materials and such other essentials as may be appropriate. During these phases, potential alternate designs shall be explored and potential problems identified and corrected.

B. Statutory Authority

- | | | |
|----|-------------------|--|
| 1. | R.R.S. 81-1108.15 | (State DAS Building Division review planning and construction documents) |
| 2. | R.R.S. 81-1108.41 | (DAS Building Division review at completion of design phases) |
| 3. | R.R.S. 81-1114.02 | (Preliminary plans) |

C. Legal Requirements

1. Definitions
 - a. Preliminary plans, as referenced in the above stated statutes are defined as Design Development Documents for this manual.
 - b. Working drawings, as referenced in the above statutes are defined as Construction Documents for this manual.
2. A design development documents submittal and review shall apply to all agencies with capital construction appropriations, whose estimated total project cost exceeds **\$580,000**.

D. Elements of Design Development Documents

1. Design Development Plans:
 - a. Site
 - b. Architectural
 - c. Structural

- d. Mechanical and electrical
- e. Other
- 2. Design Development specifications:
 - a. Bidding and contract approach (traditional bidding, design/build, construction management at risk, etc)
 - b. Outline Specifications (Divisions 1 thru 16)
- 3. Program Statement Versus Design Development Analysis
 - a. Comparison of program vs. design development space categories (square footage)
 - b. Building efficiency (net vs. gross square footage)
 - c. Explanation and justification for major variances from program specifications and special design considerations
- 4. Code and Regulatory Agency Compliance
 - a. Life Safety Code issues
 - b. State Building Code variances or issues
 - c. International Energy Conservation Code approach
 - (1) Not applicable
 - (2) Designer certification
 - (3) Plan Review
 - (4) Standard Plans
 - d. Historic Building (N.R.S. 72-808 through 72-810)

If the capital project involves a state-owned historic building for which the Agency has been notified, early consultation with the State Historic Preservation Officer (Nebraska State Historical Society) should be initiated under the provisions of state statute to insure that proposed improvements, alterations or changes shall be in keeping with the building's historical or architectural significance. No alterations to such buildings shall be

made without review and comment by the State Historic Preservation Officer.

- e. Applicable local zoning or code issues
 - f. Compliance with the Governor's Policy on Tree Removal (Appendix L)
 - g. Other code or regulatory issues affecting the project
 - h. Public notices or hearings as required or requested
5. Revised budget (As compared to Program Statement budget)
- a. Cost estimates criteria
 - (1) Identify recognized standards, comparisons and sources used to develop the estimated cost
 - (2) Identify the year and month on which the estimates are made and the inflation factors used
 - (3) Gross and net square feet
 - (4) Total project cost per gross square foot
 - (5) Construction cost per gross square foot
 - b. Total project cost
 - (1) Program planning
 - (2) Professional Fees
 - professional design consultants
 - in-house consultants
 - other consultants
 - (3) Construction
 - general, including mechanical, electrical, elevator
 - fixed equipment
 - site improvements (utilities, sidewalks, parking, landscaping, etc.)

- (4) Moveable equipment
- (5) Special or technical equipment
- (6) Land acquisition
- (7) Artwork (Appendix H) (for applicable projects)
- (8) Other costs (agency administration costs, moving, temporary space, testing, surveys, legal fees, insurance, etc.)
- (9) Project contingency

6. Time Line

- a. Funding request
- b. Funding approval
- c. Program statement approval
- d. Professional consultant selection
- e. Design Development document submittal
- f. Construction documents approval
- g. Receive bids for construction
- h. Construction contract approval
- i. Award of contract and start of construction
- j. Completion of construction

E. Design Development Review

- 1. State DAS Building Division and LB309 Task Force review
 - a. Information to be submitted by the agency shall include the following:
 - (1) Funding

- LB number and section
 - year and legislative session
 - agency number (Appendix G)
 - program number
 - amount(s)
- (2) Project
- brief description of the project
 - location
 - statewide building inventory number (except new construction)
- (3) Copy of design development documents
- (4) Copy of design development outline specifications
- (5) Budget
- project budget as specified in section D-4, above (prepared by professional consultant)
 - any anticipated changes in operational costs as compared to the program statement budget
- (6) Program statement compliance as specified in section D-3, above
- (7) Time line as specified in section D-5, above

b. State Building Division review

- (1) The DAS Building Division will review design development documents for consistency with the approved program statement and return any questions or comments to the agency within 30 days. This process may occur concurrent with the preparation of contract documents by the agency or their consultants.
- (2) No formal approval of design development documents will be required. In the event that the agency receives no response from the DAS Building Division within 30 days they may proceed with completion of contract documents.

- c. LB309 Task Force Review
 - (1) NOT APPLICABLE for those projects or buildings which are NOT eligible for LB309 Task Force funds
 - (2) The LB309 Task Force will review schematic design or design development documents for building envelope issues and other design items that can impact LB309 funding. The LB309 Task Force will return any questions or comments to the agency within 30 days. This process may occur concurrent with the preparation of contract documents by the agency or their consultants.
 - d. No formal approval of schematic OR design development documents will be required. In the event that the agency receives no response from the LB309 Task Force within 30 days, they may proceed with completion of the contract documents.
- 2. Distribution of State Building Division's recommendations.
 - a. Recommendations and questions returned to the requesting agency
 - b. Record of comments, questions and responses filed by the DAS Building Division.
- 3. Distribution of 309 Task Force Recommendations
 - a. Recommendations and questions returned to the requesting agency
 - b. Record of comments, questions and responses filed by the LB309 Task Force

CHAPTER X. CONSTRUCTION DOCUMENTS

A. Introduction

The construction document phase of a project consists of the professional consultant providing drawings and specifications which set forth in detail the requirements for the construction of the entire project including the necessary bidding information. The professional consultant shall assist in the preparation of bidding forms and preparation of the basic conditions of the contract.

B. Statutory Authority

1. R.R.S. 81-1108.15 (State Building Division review of construction documents)
2. R.R.S. 81-1108.41 (State Building Division review of construction documents)

C. Legal Requirements

A construction document submittal and review shall apply to all capital construction projects with an estimated cost of **\$580,000** or more.

D. Elements of Construction Documents

1. Drawings
 - a. Site Plan
 - b. Architectural
 - c. Structural
 - d. Mechanical
 - e. Electrical
 - f. Other (details)
2. Specifications
 - a. Bidding requirements
 - b. General conditions
 - c. Supplemental conditions

- d. General requirements
 - e. Technical specifications (Divisions 2 thru 16)
 - f. Other
3. Revised budget (As compared to Program Statement and Design Development budgets)
- a. Cost estimates criteria
 - (1) Identify recognized standards, comparisons and sources used to develop the estimated cost
 - (2) Identify the year and month on which the estimates are made and the inflation factors used
 - (3) Gross and net square feet
 - (4) Total project cost and gross square foot
 - (5) Construction cost and gross square foot
 - b. Total project cost
 - (1) Program planning
 - (2) Professional consultants
 - professional design consultants
 - in-house consultants
 - other consultants
 - (3) Construction
 - general, including mechanical, electrical, elevator
 - fixed equipment
 - site improvements (utilities, sidewalks, parking, landscaping, etc.)
 - (4) Moveable equipment
 - (5) Special or technical equipment

- (6) Land acquisition
- (7) Artwork (Appendix H) (for applicable projects)
- (8) Other costs (agency administration costs, moving, temporary space, testing, surveys, legal fees, insurance, etc.)
- (9) Project contingency
- c. Comparison to appropriations and other (itemized) available funding

4. Time Line

- a. Funding request
- b. Funding approval
- c. Program statement approval
- d. Professional consultant selection
- e. Design Development documents submittal
- f. Construction documents approved
- g. Receive bids for Construction
- h. Construction contract approval
- i. Award of contract and start of construction
- j. Completion of construction

E. Construction Documents Review and Approval

- 1. DAS Building Division and LB309 Task Force review
 - a. Information to be submitted by the agency shall include the following:
 - (1) Funding
 - LB number and section
 - year and legislative session
 - agency number (Appendix G)

- program number
 - amounts
- (2) Project
- brief description of the project
 - location
 - statewide building inventory number (except new construction)
- (3) Two sets of Construction documents (plans and specifications)
- one set for DAS Building Division review
 - one set for Task Force for Building Renewal review
 - NOT APPLICABLE for those projects or buildings which are not eligible for LB309 Task Force funds
- (4) Budget - Project budget as specified in section D-3, above (prepared by professional consultant)
- (5) Compliance with the approved program statement, highlighting any significant variances subsequent to the design development documents submittal
- (6) Time line as specified in section D-4, above
- b. State Building Division report and approval (generally completed within 30 days of receipt of the agency submittal).

2. Report filed.

- a. Copies of the State Building Division's review and approval are filed with the State Building Division, The DAS Budget Division, The Legislative Fiscal Office and the requesting agency.
- b. Copies of the Task Force for Building Renewal review and recommendations are filed with the DAS Building Division and the requesting agency.

CHAPTER XI. BIDDING AND CONSTRUCTION CONTRACT PHASE

A. Introduction

The purpose of the guidelines for the project bidding and construction contract phase is to fulfill statutory requirements as set forth for the bidding procedures and to establish fair and equitable construction cost amounts for capital construction projects. A successful project bidding and negotiation phase is one that assures the State of Nebraska the highest quality construction effort within the budget constraints established by the Legislature, while at the same time maintaining the integrity of the competitive bidding process for the long-range benefit of the State of Nebraska.

B. Definitions and Applicability

1. This procedure may apply to the procurement of any professional construction, reconstruction, renovation, alteration or improvement to any building, facility, structure, site improvements or landscaping. Generally, these services involve the provision of both material and labor to produce a “custom made” product.
2. A construction or renovation project would generally not include maintenance contracts. Maintenance contracts are defined as any work performed on an ongoing or annual basis to include inspections, tests, adjustments, preventive or routine maintenance or any warranty-related requirements. Generally, maintenance contracts should be procured in accordance with the Procedure for Procurement of Contractual Services authored by the Department of Administrative Services (DAS) Materiel Division, revised April, 1995.
3. The procedures under this guideline should not be used to acquire finished products that do not involve on-site contractor labor to produce or install. Procurement of “material only” purchases are governed by procedural guidelines issued by the DAS Materiel Division.
4. Procedures under this guideline shall not be used to hire, or obtain the services of an employee or contractor in a manner contrary to state law, regulation, appropriation or executive order. The procuring agency is responsible for insuring that any contract executed as a result of this process does not circumvent or violate such rules and regulations.

C. Statutory Authority

- | | | |
|----|---------------------------|--|
| 1. | R.R.S. 33-141 | (Rates for legal notices) |
| 2. | R.R.S. 73-101 thru 73-105 | (Public Letting) |
| 3. | R.R.S. 81-146 | (Non applicability of purchasing statutes to construction) |
| 4. | R.R.S. 81-1108.16 | (SBD review of construction contracts) |
| 5. | R.R.S. 81-1108.16 | (Review, report, and approval of contracts) |
| 6. | R.R.S. 81-1108.43 | (Capital construction acts prohibited) |
| 7. | R.R.S. 81-1114 | (Submission of contracts to Legislative Fiscal Analyst) |
| 8. | R.R.S. 72-801 thru 72-803 | (Public buildings cost and use) |

D. Project Classification

1. Total project cost over **\$580,000** - Major Capital Construction Projects
 - a. A formal set of plans and/or specifications shall be prepared for distribution to all bidders who indicate an interest in bidding. The scope and detail of the project shall be adequately defined so competitive bids can be received. A date and time shall be set, at which time bids will be received. Contract documents shall be prepared under the direct supervision of a professional architect or engineer who has been selected under the Nebraska Consultant's Competitive Negotiation Act.
 - b. The agency shall require all firms submitting bids to include bid security in the amount of 5% of the bid amount and agree to furnish bonds for performance and labor and material payment in the event they are awarded a contract for the work.
 - c. A public notice to bidders announcing the availability of the project shall appear in a publication based in or near the locality of the project and in other widely circulated publications as deemed necessary by the agency. Contractor plan services, builders bureaus or the Internet should be used to supplement notice placed in publications available to the general public.

- d. Sealed bids shall be submitted to the agency not later than a specified date and time. Bids will be publicly opened and read aloud.
 - e. A formal agreement between the agency and the selected contractor shall be executed. American Institute of Architects (AIA) documents with required State modifications or agency standard contracts should be used.
 - f. Prior to executing the contract, the agency shall ensure that the proposed agreement is reviewed and approved by the following:
 - (1) The Attorney General's office or their designee
 - (2) The Department of Administrative Services State Building Division
2. Total project cost between \$40,000 and **\$580,000** - Formal Bidding Process With Bonding
- a. A formal set of plans and/or specifications shall be prepared for distribution to all bidders who indicate an interest in bidding. The scope and detail of the project shall be adequately defined so competitive bids can be received. A date and time shall be set, at which time bids will be received. Contract documents shall be prepared under the direct supervision of a professional architect or engineer.
 - b. The agency shall require all firms submitting bids to include bid security in the amount of 5% of the bid amount and agree to furnish bonds for performance and labor and material payment in the event they are awarded a contract for the work.

- c. A public notice to bidders announcing the availability of the project shall appear in a publication based in or near the locality of the project and in other widely circulated publications as deemed necessary by the agency. Contractor plan services, builders' bureaus or the Internet should be used to supplement notice placed in publications available to the general public.
 - d. Sealed bids shall be submitted to the agency not later than a specified date and time. Bids will be publicly opened and read aloud.
 - e. A formal agreement between the agency and the selected contractor shall be executed. AIA documents with required State modifications or agency form contracts may be used.
 - f. Prior to executing the contract, the agency shall ensure that the proposed agreement is reviewed and approved by the Attorney General's office or their designee.
- 3. Total project cost between \$15,000 and \$40,000 - Informal Bidding Process
 - a. Three or more quotations for the project shall be solicited from responsible bidders. Original quotations may be in writing or verbal. Any verbal quotations must be followed up with a written or faxed confirmation for project files.
 - b. A fixed bid receipt date or public opening is not required.
 - c. A formal contract shall be executed for the project. The contract may be an agency form contract or letter of agreement.
 - d. All resulting quotations or refusals to quote shall be documented by the agency for reference.
- 4. Total project cost less than \$15,000 - Open Solicitation Process
 - a. Competitive bidding not required
 - b. The agency may contract directly with a responsible contractor.

E. Special Situations

1. **Emergencies** - Emergencies are defined as situations where a clear and foreseeable danger will exist without the institution of appropriate measures to reduce or remove that danger. If the subject situation is not alleviated, the health, safety or welfare of citizens of this State or the mission or condition of the facility will continue to be threatened or is in jeopardy of further damage. In such cases, the Agency Director shall be responsible for making whatever modifications to the above processes are deemed most appropriate to obtain the needed services within the required time frame.
2. **Sole Source** - In the event that the requirements of a project or process require that it be supplied by a single firm or other unique circumstances preclude the opportunity to receive competitive bids, the Agency Director may negotiate a price for the project with a single qualified contractor. Documentation justifying the sole source process shall be included in the project file for possible future reference. Prior to the award of a sole source contract in excess of \$40,000, a Request for Proposal form must be made public for 15 days to assure public awareness of the project.
3. **Fewer than Three Bids** - In the event that the prescribed procedures for competitive bidding are carried out and the resulting bids received number less than three, the agency may award the project based upon the bids submitted or rebid the project. The Agency Director shall ensure that documentation is included in the project file which shows compliance with the appropriate bidding procedures and shows that it is in the State's best interest enter into an agreement with the selected bidder.
4. **All Bids Exceed Project Budget** – In the event that all submitted bids exceed the fixed project budget, the agency may choose to proceed in accordance with one of the following procedures. Any revisions to the project scope or budget undertaken as part of the below procedures must remain consistent with the approved program statement and legislative intent that may be tied to the project appropriation. Note: For projects funded by the 309 Task Force, see Appendix I.
 - a. The agency may reject all bids, adjust the project scope and/or budget and repeat the public bidding process.

- b. If rebidding is determined by the agency to not be in the State's best interest, the agency may negotiate with the lowest responsible bidder in the following manner.
 - (1) Award the project to the lowest responsible bidder contingent upon the mutual ability of the State and the bidder to negotiate acceptable cost reductions to bring the project within the fixed budget.
 - (2) In cooperation with the project consultants and the low bidder identify methods to adjust the project scope, materials or labor to reduce the overall cost of the project. The agency shall reserve the right to accept or reject any proposed changes and accompanying costs.
 - (3) In the event that acceptable cost reductions can be achieved, the agency may execute a formal contract with the contractor for the project. The contract should be in the amount of the original bid with a change order to include the negotiated cost reductions being executed simultaneously with the contract.
 - (4) If the agency and the bidder cannot reach a mutually acceptable agreement, the agency may terminate negotiations and rebid the project.
 - (5) For requirements for bidding materials for in-house labor projects funded by the 309 Task Force, see Appendix I.
- 5. Special project bidding conditions or requirements for contractor qualifications.

F. Ethics and Conduct

- 1. Conflict of Interest - No person shall participate in, or assume responsibility in, the implementation and execution of the procedures including the evaluation of proposals and selection of contractors when participation constitutes a conflict of interest as defined by law, regulation or executive order.
- 2. Equal Access to Information - All bidders shall be afforded equal access to information which may affect their bids submitted under this process. A state agency or state employee shall not

furnish any technical information, solicit proposals or take any action which could be construed as giving a direct or indirect advantage to any potential bidders. Bidders' requests for technical information or clarification can and should be answered, if possible. However, if the response may, in any way, affect the bid received, the information must be supplied equally to all potential bidders.

G. Technical Specifications and Scope of Work

1. It is the responsibility of the agency to ensure that technical plans and specifications are created which accurately and adequately define the scope of work for potential bidders.
2. It is the responsibility of the agency to ensure that technical plans and specifications issued to potential bidders are:
 - a. Quantified and structured in such a manner which ensures quality while recognizing the need to be cost effective.
 - b. Clearly stated to ensure equal competition among bidders.
 - c. Unbiased and non-prejudicial toward bidders
 - d. Structured to ensure free and open competition to the maximum extent possible.
3. The technical plans and specifications eventually form a key portion of the basic governing language of the resulting contract with the successful bidder. Specifications must be written in a manner which ensures that the project requirements are fully and adequately described. Incomplete or unclear specifications may result in many details of the agreement being defined by the contractor's proposal or "standards of the industry" which may not, in many cases, be in the State's best interest.

H. Contractor Selection and Project Award

1. The agency is responsible to act in the best interest of the State in the evaluation of all competitive bids and proposals and the award of projects to the lowest responsible bidder. In reviewing bids, the agency may consider the following criteria:

- a. Bid price
 - b. The ability, capacity and skill of the bidder to perform the work required.
 - c. The character, integrity, reputation, judgement, experience and efficiency of the bidder.
 - d. The ability of the bidder to perform the contract within the time specified (assuming a time is specified in project specifications).
 - e. The quality of workmanship and level of performance on previous contracts.
 - f. Past and present level of compliance by the bidder with laws relating to the contract.
 - g. Life cycle costs
 - h. Performance in accordance with commonly accepted standards of usability and user requirements.
 - i. Energy efficiency ratios
 - j. Expected life, repair, maintenance costs and energy costs
 - k. Other criteria specific to the project being awarded.
- 2. The agency shall ensure compliance with Nebraska Statutes relating to giving preference for resident bidders.
 - 3. The agency shall ensure compliance with Nebraska Statutes relating to Fair Labor Standards.
 - 4. The agency shall ensure compliance with the State statutes relating to equal opportunity.
 - 5. All contractors shall be required to certify that they have a drug free workplace policy prior to entering into a contract for any State work.

I. Grievance Procedure

In the event that any individual or firm wishes to contest the agency's selected bidder or the selection process, a predefined grievance

procedure will be of assistance to the agency in resolving the protest. The following suggested procedure is modeled after the procedure developed by the DAS Materiel Division for dealing with bid grievances.

1. Grievances/protests are to be expressed in writing to the Director of the procuring agency. The letter should state the project and specific issues that are to be addressed.
2. The Agency Director will provide a copy of the grievance to the project manager or other appropriate staff for review. The staff will address each issue individually, in writing, to the Director.
3. The Director will review and evaluate the issues of the grievance and the staff response to make a determination of any merit the grievance may have. The Director will respond to the bidder in writing specifying findings related to the grievance and actions, if any, to be initiated by the agency to resolve the grievance.
4. If, after receiving written notice of the decision of the Director relating to the grievance, the bidder remains unsatisfied, the bidder may request a personal meeting with the Director to discuss any concerns they may have with the Director's decision.
5. A written response will be sent to the bidder, informing the bidder of the agency's final decision relating to the grievance.

J. Construction Contract Review and Approval

1. State Building Division Review
 - a. Information submitted by the agency shall include the following
 - (1) Copy of the proposed contract (unsigned by agency)
 - (2) Funding
 - LB number and section
 - year and legislative session
 - agency number (Appendix G)
 - program number
 - amount(s)

- (3) Project
 - description of the project
 - location (County, town or campus)
 - statewide building inventory number (except new construction)
- (4) The bid tabulation report by agency
- (5) Agency director's and project manager recommendation of award of bid
- (6) Approval of the contracts by legal counsel or the Attorney General
- (7) Professional consultant's recommendation of award of bid
- (8) Revised budget
- (9) Time/cost schedule

b. State Building Division's report and approval

2. Distribution of Report and Approval

Copies of the State Building Division's report and approval are filed with the Legislative Fiscal Analyst.

3. Notice to proceed

The agency will be notified by the State Building Division on how to proceed.

CHAPTER XII. CONSTRUCTION PHASE

A. Introduction

This phase of the project begins after the Owner-Contractor Agreement has been approved and signed by both parties. It requires submittal of information prior to and after construction is initiated.

B. Statutory Authority

1. R.R.S. 81-1108.15 (State Building Division, time-cost schedules)
2. R.R.S. 81-1108.15 (State Building Division, facilities construction supervision, reports and approvals)
3. R.R.S. 81-1108.15 (State Building Division, cost and status reports)
4. R.R.S. 81-1108.42 (State Building Division, DAS, certificate of final payment)
5. R.R.S. 81-1108.43 (State Building Division, DAS warrants for payment of work)

C. Preconstruction Phase

1. In addition to the Owner/Contractor Agreement, there are related documents that should also be reviewed by all parties concerned with the construction of the project construction. Documents which should be submitted by the contractor to the agency for approval include:
 - a. Performance Bond and Labor and Material Payment Bond
 - b. Certificate of insurance (Appendix D)
 - c. Schedule of values (Appendix D)
 - d. Construction schedule
 - e. Monthly time-cost schedule
2. In the event that the contractor's time-cost schedule varies significantly from that submitted to SBD with the Construction Contract Submittal, the agency shall provide changes to DAS/SBD and the DAS Budget Office.

3. A preconstruction conference should be conducted with the agency representative, consultant and contractor present. The purpose shall be to discuss the project and responsibilities such as administration, inspection, observation, superintendence and supervision. State Building Division shall be notified of the time and place for the preconstruction conference.

D. Construction Phase

1. The documents to be submitted by the contractor and the professional consultant to the agency shall include, but not limited to the following:
 - a. Shop drawings and samples
 - (1) Review and approval by contractor
 - (2) Review and approval by professional consultant
 - (3) Review and approval by agency
 - b. Schedules
 - c. Tests and reports
 - d. Professional consultant's request for payments
 - e. Periodic observations and progress reports by professional consultant and agency representative.
 - f. Contractor application and certificate of payment (Appendix F)
 - (1) Certification by professional consultant
 - (2) Approval by agency
 - g. Change Orders (Appendix E)
 - (1) Certification by professional consultant
 - (2) Approval by agency
2. Quarterly Capital Construction Project Reporting to the DAS State Building Division

- a. Reporting requirements
 - (1) Agencies shall prepare and submit to DAS State Building Division quarterly reports for all projects whose total project funding exceeds **\$580,000**.
 - (2) DAS/SBD may require that quarterly project reports be submitted for projects under **\$580,000**.
- b. Reporting format – See Appendix K
 - (1) Updated project budget in the same format as used in the construction contract Submittal to DAS/SBD.
 - (2) Contracts and other commitments through the end of the quarterly reporting period, referenced to budget category
 - (3) Cumulative expenditures through the end of the reporting period, referenced to budget category
 - (4) Copies of all construction contract change orders executed during the reporting period

3. Periodic Contractor Payments

- a. All project payments shall be processed using the Nebraska Information System (NIS).
- b. NIS Business Unit setup and payment coding shall be structured to allow aggregation by capital construction budget category.

E. Substantial Completion

- 1. Certificate of substantial completion (AIA Form G704)
 - a. Notification by contractor
 - b. Certification by consultant
 - (1) Attach punch list, inspection and report by consultant.
 - c. Inspection and report by agency project manager.

- d. Approval by agency
 - e. Demonstration of equipment and mechanical systems
 - f. Move in by agency
2. Note: Most warranties start with the date of substantial completion.

F. Final Completion – Submittal of Final Contractor Payment(s) to the DAS State Building Division

- 1. Submittal by the Contractor to the Agency shall include:
 - a. Final Payment Request in accordance with contract requirements
 - b. Submittal of the consent of the surety to final payment
- 2. Submittal by the Consultant to the Agency shall include:
 - a. Certification of the Contractor's final payment request
 - b. Certification that all work under the contract substantially conforms to the contract documents and that the contract has been satisfactorily performed except for the making of final payment.
- 3. Submittal of final contractor payment to DAS/SBD shall include:
 - a. The Contractor's final payment request
 - b. Certification (in accordance with item F.2 above) from the Consultant
 - c. Certification of Agency compliance with Nebraska Revised Statutes, section 83-134, where applicable
 - d. Approval for payment by the Agency
- 4. Processing of the final contractor payment by DAS/SBD
 - a. Review Agency final contractor payment submittal for completeness

- b. Submit final payment submittal to the DAS Director (as applicable) and State Accounting for payment

CHAPTER XIII. POST CONSTRUCTION PHASE

A: Introduction

When the project is completed and final payments have been made, evaluations of all aspects of the project and submittals of contract guarantees and warranties are required.

B. Statutory Authority

1. R.R.S. 81-1108.15 (State Building Division, acceptance and final inspection)
2. R.R.S. 81-1108.15 (State Building Division assurance of maintenance)
3. R.R.S. 81-1108.15 (State Building Division, acceptance and final reports)
4. R.R.S. 81-1108.43 (Capital construction prohibitive act)

C. Legal Requirements

1. Submittal of final report to the State Building Division on projects whose total cost is four hundred fifty thousand dollars (450,000) or more.
2. The State Building Division may require the final report on projects whose total cost is less than four hundred fifty thousand dollars (450,000).

D. Final Report by Agency

1. The Agency final report shall be submitted not later than 30 days after final payment and shall include, but not limited to the following:
 - a. The Final Quarterly Project Report
 - b. Certification that the construction complied with the approved program statement.
 - c. Agency Evaluation of consultant
 - (1) Conformance with professional service agreement
 - (2) Conformance with budget requirements

- (3) Conformance with time line
 - (4) Project management
 - (5) Planning and design
- f. Agency Evaluation of contractor
 - (1) Conformance to construction agreement
 - (2) Quality of workmanship
 - (3) Conformance with time line
 - (4) Project management
 - (5) General comments

E. Final Review by State Building Division

- 1. Review of Agency submittal
- 2. Report filed
 - a. Legislative Fiscal Analyst
 - b. Governor

F. Guarantee and Warranty Phase

- 1. Eleven month inspection of the facility with professional consultant
 - a. Written notice of deficiencies (if any) to contractor
- 2. Guarantee and warranty procedures
 - a. Agency's written report of deficiency to contractor
 - b. Agency's written acknowledgment of corrective work to contractor
 - c. Coordinate with DAS State Building Division as necessary
- 3. Evaluation of the facility

- a. Success of design
- b. Energy efficiency
- c. Operational experience
- d. Environmental considerations
- e. Evaluation of artwork

G. Project Close-out

- 1. One year post-completion inspection
 - a. Written notice to contractor of any deficiencies not corrected
 - b. Written notice to professional consultant of any deficiencies not corrected
- 2. Extended warranties
 - a. Written notice of deficiency direct to manufacturer/supplier or sub-contractor
 - b. Written acknowledgment of correction action
- 3. Operations and maintenance programs
 - a. Establishment of a preventive maintenance program
 - b. Operations in accordance with manufacturer's recommendations
 - c. Coordination with the State Building Division and the Task Force for Building Renewal.

CHAPTER XIV. SITE AND STRUCTURE NAMING PROCEDURES

A. Introduction

To name a site or structure requires the following review and approvals.

B. Statutory Authority

1. R.R.S. 81-1108.15 (State Building Division review of proposals)
2. R.R.S. 81-1108.36 (State owned or leased site or structure naming)

C. Procedures

1. Agency proposal
2. Agency submittal to Legislature for approval
3. Agency submittal to State Building Division for review and Governor's approval or disapproval

D. Site and Structure Naming Review and Approval

1. State Building Division Review
 - a.Submission to the State Building Division by the agency shall include, but not limited to, the following
 - (1) Site or Structure
 - name or designation
 - (2) Location
 - county name
 - town or campus
 - address
 - statewide building inventory number
 - (3) Previous name or designation and reason for the change
 - name

- reason for name
- evidence of support

2. Distribution of the State Building Division's report and recommendations
 - a. Review by D.A.S. Budget Division
 - b. Review by D.A.S. Director
 - c. Review by the Governor for approval or disapproval
3. Report filed
 - a. Legislative Fiscal Analyst
 - b. Governor
4. Notice to proceed

The State Building Division will notify the agency the agency on how to proceed.

CHAPTER XV. CAPITAL CONSTRUCTION EMERGENCY CONTINGENCY FUND

A. Introduction and Purpose

The Legislature, in 1974 (Statute 81-1108.24 - 81-1108.25), recognized the problem of emergency situations which could not be foreseen by the agencies and which would require the availability of immediate funds to resolve such problems. Expenditures from this fund shall be authorized to supplement available funds for construction projects when needed for emergency construction, repair or remodeling. Emergency shall mean that a clear and foreseeable danger is created and that without institution of appropriate measures to reduce or alleviate such danger, the health, safety or welfare of the citizens of this State or the purposes of the facility will be or will continue to be threatened.

Section 81-1108.25 of Nebraska Statutes Cumulative Supplement, 1976, provides for the expenditure of these funds to be made by the Department of Administrative Services as when approved by the Governor.

B: Statutory Authority

1. R.R.S. 81-1108.24 (Creation of the Emergency Capital Construction Contingency Fund)
2. R.R.S. 81-1108.25 (State Emergency Capital Construction Contingency Fund purpose.)

C. Procedures

No appropriation is presently available, therefore application procedures and guidelines will be made available if an appropriation is made to this fund.